

294.

See notes to section 293.

295.

See notes to section 293.

296.

Co-executors are in law one individual person; the acts of one relative to the administration are the acts of all and the possession of one is the possession of all. Powers and duties of executors which remain unexecuted and unfulfilled, pass to the surviving executor. Rights of a surviving executor against the executor of his co-executor. *Crothers v. Crothers*, 121 Md. 118.

See notes to section 11.

Widows.

308.

This section referred to in construing section 309—see notes thereto. *Beachley v. Estate of Bollinger*, 119 Md. 156.

309.

It is mandatory upon the orphans' court, under this section, to make the allowance to the widow. When the allowance is made under this section, it will be assumed that the deceased left no infant children, in the absence of anything to the contrary in the record. *Beachley v. Estate of Bollinger*, 119 Md. 156.

317.

Undoubtedly the better form in which to present an issue upon the execution of a will is to adopt as nearly as possible the language of the statute or else by the insertion of the names to make the issue as framed a concrete one of fact only. A departure from this rule involves the danger of tendering an issue at law only, in which event it becomes the duty of the trial court to refuse to submit such issue to the jury. When an issue is one of law and when one of fact, and when a mixed question of law and fact. *McSherry v. Winsatt*, 116 Md. 653.

The wife cannot by will or otherwise deprive her husband of his one-third share provided for by this section. A husband held not to have waived or renounced his claim under this section; hence his executor was entitled to recover the same. *Barroll v. Brice*, 115 Md. 502.

Wills.

322.

See notes to section 338.

323.

A prayer held not to meet the requirements of this section; it is not sufficient to prove that two or more competent witnesses signed the will, but it must be attested and subscribed to in the presence of the testatrix. It is doubtful whether an issue reading, "Was the will of ——— executed by her according to the laws of the State of Maryland, relating to the execution of wills," submits the question of the attestation of the witnesses. A will held to have been properly witnessed, and a witness held competent. *Conrades v. Heller*, 119 Md. 458.

Where a witness states that a will was executed in his presence and that it was signed by both witnesses in his office, but does not state that the witnesses signed in the testator's presence, an attestation in accordance with this section is not established. *Tinnan v. Fitzpatrick*, 120 Md. 348.

See notes to section 338.